

LUFKIN DIVISION

ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are correct, and the report and recommendation of the Magistrate Judge (document no. 12) is **ADOPTED**. Defendant Brad Livingston's second motion to dismiss (document no. 7) is **GRANTED**. Defendant

Livingston's first motion to dismiss (document no. 3) is **DENIED** as moot. A partial judgment will be entered in this case in accordance with the Magistrate Judge's recommendation.

So Ordered and Signed

Mar 3, 2017

A handwritten signature in black ink, appearing to read "Ron Clark", written above a horizontal line.

Ron Clark, United States District Judge